

Applicants : Jerry S. Brown *et al.*
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REMARKS

Claims 16-18 and 21-30 are pending in this application. By this Amendment, claim 16 is amended to recite features supported in the specification at, for example, page 16, lines 9-13 and page 19, line 17 – page 20, line 10 (corresponding to paragraphs [0037] and [0042] of U.S. Patent Application Publication 2005/0059566). No new matter is added by any of these amendments.

Claims 1-15, 19 and 20 were previously withdrawn from consideration as being drawn to a non-elected Group and subsequently cancelled. Reconsideration based on the following remarks is respectfully requested.

I. Amendment Entry After Final Rejection

Entry of this amendment is proper under 37 CFR §1.116 because the amendments: a) place the application in condition for allowance for all the reasons discussed herein; b) do not raise any new issues requiring further search or consideration; c) place the application in better condition for appeal if necessary; and d) address formal requirements of the Final Rejection and preceding Office Action.

The foregoing amendments do not raise any new issues after Final Rejection. Accordingly, Applicants respectfully request entry of this Amendment.

II. Obviousness Rejection under 35 U.S.C. §103

The Final Office Action rejects claims 16-18 and 21-30 as being allegedly obvious under 35 U.S.C. §103(a) over U.S. Patent 6,656,919 to Baugh *et al.* ("Baugh") in view of U.S. Patent 6,369,288 to Brown and rejects claims 17, 21, 22 and 30 as being allegedly obvious under 35 U.S.C. §103(a) over Bough in view of Brown and further in view of U.S. Patent 5,462,692 to Roesler *et al.* ("Roesler"). These rejections are respectfully traversed.

Applicants' claims are directed generally, for example, a method for decontaminating contamination containing biological spores using a spore generation composition. In particular, independent claim 16 recites, *inter alia*, "providing a microemulsion composition having a microemulsion including a surfactant, a solid source of peroxy carboxylic acid dissolved in the

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microemulsion and a germinant in combination with the solid peroxy carboxylic acid within the microemulsion." Applicants respectfully submit that Baugh, Brown and Roesler, alone or in combination, do not describe or suggest at least a surfactant-containing microemulsion. These arguments also apply to claims 17, 18 and 21-30 based on their dependence from claim 16.

Instead, Baugh discloses a method for rendering bacterial endospores harmless by activation to germinate and convert the endospores to vegetative cells with subsequent application of a germicide to kill the vegetative cells. In particular, Baugh teaches germinating the endospores by sublethal heating or by adding a germinant. See, e.g., col. 6, lines 23-34; col. 7, lines 24-37 of Baugh. Further, Baugh teaches vegetative germicides, such as phenolics, halogens, alcohols, heavy metals, quaternary ammonium salts, organic acids, aldehydes, gaseous chemosterilizers and oxidizing agents. See, e.g., col. 8, lines 25-36 of Baugh. There is no teaching or suggestion in Baugh for applying any form of surfactant.

Further, Brown discloses a method for applying a decontamination solution to neutralize a chemical and/or biological warfare agent, such as peroxy carboxylic acid. In particular, Brown teaches generating the agent by mixing a peroxygen compound, such as hydrogen peroxide, with bleach. See, e.g., col. 2, lines 35-54; col. 3, lines 4-13 of Brown. There is no teaching or suggestion in Baugh for including a surfactant for its decontamination solution.

Moreover, Roesler fails to compensate for the deficiencies of Baugh and Brown. Instead, Roesler teaches solid acetyl peroxyborate compounds for cleaning applications and as oxidizing agents in organic synthesis. In particular, Roesler discloses chemical structures derived from acetyl groups, oxygen and borate. See, e.g., col. 3, lines 11-41 of Roesler. However, there is no teaching or suggestion in Roesler for providing a surfactant. Thus, even assuming that motivation for an artisan of ordinary skill could have been established at the time of the invention to combine the borate compounds of Roesler with the germination of Baugh and the peroxide-bleach mixture of Brown, the combined teachings of Baugh, Brown and Roesler fail to describe or suggest all of Applicants' claimed features.

A *prima facie* case of obviousness for a §103 rejection requires satisfaction of, *inter alia*, that the references must teach or suggest all the claim limitations. See MPEP §706.02(j). Applicants submit that the Final Office Action fails to satisfy these requirements with Baugh, Brown and Roesler.

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For at least these reasons, Applicants respectfully assert that the independent claim is patentable over the applied references. The dependent claims are likewise patentable over the applied references for at least the reasons discussed, as well as for the additional features they recite. Consequently, all the claims are in condition for allowance. Thus, Applicants respectfully request that the rejection under 35 U.S.C. §103 be withdrawn.

III. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further is desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,



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